

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANTHONY BERRY,

1:23-cv-2740 (NLH)

Petitioner,

**MEMORANDUM OPINION &
ORDER TO ANSWER**

v.

UNITED STATES OF AMERICA,

Respondent.

APPEARANCES:

Anthony Berry
63766-066
Otisville
Federal Correctional Institution
P.O. Box 1000
Otisville, NY 10963

Petitioner pro se

HILLMAN, District Judge

WHEREAS, Petitioner Anthony Berry filed a "motion for removal of 924(c) enhancement/compassionate release or in the alternative a reduction in sentence," which the Court has construed both as a motion under 18 U.S.C. § 3582(c)(1)(A)(i)¹ and as a motion to correct, vacate, or set aside his federal sentence under 28 U.S.C. § 2255, see ECF No. 1; and

WHEREAS, the Court having reviewed the motion and concluded

¹ This motion is presently pending in Petitioner's criminal case, 10-cr-51.

that an answer from the United States is warranted,

THEREFORE, IT IS on this 26th day of May, 2023

ORDERED that within forty-five (45) days of the date of the entry of this Order, the United States shall electronically file and serve an answer to the § 2255 Motion; and it is further

ORDERED that the answer shall respond to the allegations and grounds of the Motion and shall adhere to Rule 5 of the Rules Governing Section 2255 Proceedings; and it is further

ORDERED that the answer shall address the merits of each claim raised in the Motion as well as whether the Motion is timely; and it is further

ORDERED that, where the Petition appears to be untimely under the Antiterrorism and Effective Death Penalty Act of 1996, within forty-five (45) days of the date this Order is filed, Respondent may file a Motion to Dismiss on timeliness grounds only, provided that the motion: (1) attaches exhibits that evince all relevant court filing dates; (2) contains legal argument discussing pertinent timeliness law; and (3) demonstrates that an Answer to the merits is unnecessary; and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further

ORDERED that if the answer refers to briefs or transcripts, orders, and other documents from prior proceedings, then the

United States shall serve and file them with the answer; and it is further

ORDERED that Petitioner may serve and file a reply to the answer within forty-five (45) days after the answer is filed; and it is further

ORDERED that any request to deviate from this Order to Answer shall be made by motion; and it is finally

ORDERED that the Clerks shall send a copy of this Order to Petitioner by regular mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.